UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/412,738	10/04/1999	ALEXANDER I. HOPMANN	13768.119	1043

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EXAMINER
NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/412,738	HOPMANN ET AL.
	Examiner	Art Unit
	Dustin Nguyen	2154

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _03 December 2003_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,5-10,12-14,16,18-21,24,25,27-29,31-34 and 36-43_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1,5-10,12-14,16,18-21,24,25,27-29,31-34 and 36-43_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1, 5-10, 12-14, 16, 18-21, 24, 25, 27-29, 31-34, 36-43 are presented for

consideration.

Specification

2. The disclosure is objected to because of the following informalities: a new resource tag

46 on page18, lines 23, is not shown in Figure 3.

Appropriate correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine
grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or
improper timewise extension of the "right to exclude" granted by a patent and to prevent possible
harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.
Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686
F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA
1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to
overcome an actual or provisional rejection based on a nonstatutory double patenting ground
provided the conflicting application or patent is shown to be commonly owned with this
application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal
disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR
3.73(b).

4. Claims 1, 5-10, 12-14, 16, 18-21, 24, 25, 27-29, 31-34, 36-43 are provisionally rejected

under the judicially created doctrine of obviousness-type double patenting as being unpatentable

over claims 1-3 of Patent No 6,578,069 [hereinafter '069 patent]. Although the conflicting

claims are not identical, they are not patentably distinct from each other because of the following

reasons:

Taking claim 1 as an exemplary claim, the '069 patent contains the subject matter

claimed in the instant application. As per claim 1, both applications are claiming common

subject matter, as follows:

In a system capable of replicating a server copy of a resource stored on one or more

servers with a client copy of the resource stored on one or more clients, a method for resolving a

resource conflict so that the client copy of the resource can be updated to the one or more servers

without overwriting any changes made to the resource by another client, the method comprising

the steps of:

determining that a conflict exists ...;

determining, at the server, whether the server ...;

creating, by the server, a conflict resource, ...;

evaluating, at the client, whether the conflict resource ...; and

presenting the conflict resource ....

The claim of '069 patent do not specifically state resolve the conflict resource as

described in the claim 1 of instant application but it would have been obvious to a person skill in

the art to recognize that the two claims are similar because '069 patent discloses the steps of

synchronized resources by determining the change of the resource and replacing resource into a

single version.

As per independent claims 10, 40 and 41, they are also directed to the same subject

matter recited in claim 1 above. Accordingly, they are provisionally rejected under the judicially

created doctrine of obviousness-type double patenting.

As per dependent claims 5-9, 12-14, 16, 18-21, 24, 25, 27-29, 31-34, 36-39, 41 and 43,

they are depending on rejected claims, they are provisionally rejected under the judicially created

doctrine of obviousness-type double patenting.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claims 1, 5-10, 12-14, 16, 18-21, 24, 25, 27-29, 31-34, 36-43 are rejected under 35

U.S.C. 103(a) as being unpatentable over Souder et al. [US Patent No 5,806,074], in view of

Draper et al. [US Patent No 5,924,096].

7.   As per claim 1, Souder discloses the invention substantially as claimed including a

system capable of replicating a server copy of a resource stored on one or more servers with a

client copy of the resource stored on one or more clients, a method for resolving a resource

conflict so that the client copy of the resource can be updated to the one or more servers without

overwriting any changes made to the resource by another client, the method comprising the steps

of:

determining that a conflict exists between the server copy of the resource and the client

copy of the resource [col 8, lines 24-41; and col 19, lines 12-20];

determining, at the server, whether the server can resolve the conflict between the

resource and the copy of the resource into a single version of the resource [col 5, lines 1-17; and

col 9, lines 59-col 10, lines 3];

creating, by the server, a conflict resource, if the conflict cannot be resolved by the server

[col 10, lines 15-20; and col 20, lines 36-61];

evaluating, at the client, whether the conflict resource can be resolved into a single

version of the resource in accordance with a schema of the client if the conflict was not resolved

at the server [col 11, lines 37-44 and lines 51-67];

presenting the conflict resource to a user if the conflict resource cannot be resolved by the

client [col 11, lines 63-67; and col 16, lines 17-23].

Souder does not specifically disclose

if a server resource tag that is representative of the server copy of the resource does not

match a client resource tag that is representative of the client copy of the resource.

Draper discloses

if a server resource tag that is representative of the server copy of the resource does not

match a client resource tag that is representative of the client copy of the resource [col 5, lines

19-36; and col 9, lines 60-col 10, lines 21].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Souder and Draper because Draper's teaching of resource tag would provide an improved method and system for distributed database caching to reduce the amount of unnecessary data sent between nodes [Draper, col 2, lines 19-22].

8.   As per claim 5, Souder discloses the step of resolving the conflict at the server [col 3, lines 24-33].

9.   As per claim 6, Souder discloses the step of comparing the client copy of the resource with the server copy of the resource [col 8, lines 29-33].

10.   As per claim 7, Souder discloses the conflict resource comprises the server copy of the resource and the client copy of the resource [col 3, lines 27-34].

11.   As per claim 8, it is rejected for similar reasons as stated in claim 1.

12.   As per claim 9, Souder discloses uploading the resolved conflict resource to the server [col 2, lines 30-35]. Souder does not specifically disclose returning a new resource tag to the client from the server. Draper discloses returning a new resource tag to the client from the server [col 8, lines 62-col 9, lines 24]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Souder and Draper because Draper's

teaching of returning new resource tag would allow client to identify conflict resource to reduce network traffic.

13.   As per claim 10, Souder discloses the invention substantially as claimed including in a system having multiple copies of a resource, a method for detecting and resolving a conflict between a client copy of the resource and a server copy of the resource so that the client can upload the client copy of the resource to the server without overwriting any changes made to the server copy of the resource by another client, the method comprising the steps of:

determining that a conflict exists if the client resource tag does not match the server resource tag [Abstract; and col 5, lines 5-8];

executing a server level of conflict resolution between the client copy of the resource and the server copy of the resource at the server in order to resolve the server copy and client copy of the resource into a single version of the resource [col 5, lines 1-17; and col 9, lines 59-col 10, lines 3].

Souder does not specifically disclose

receiving, from the client, a client resource tag at the server, wherein the client resource tag identifies a client version of the client copy of the resource;

determining, by the server, whether the client resource tag matches a server resource tag, wherein the server resource tag identifies a server version of the server copy of the resource.

Draper discloses

receiving, from the client, a client resource tag at the server [col 1, lines 55-58], wherein

the client resource tag identifies a client version of the client copy of the resource [col 2, lines

34-39];

determining, by the server, whether the client resource tag matches a server resource tag [

col 9, lines 60-col 10, lines 21], wherein the server resource tag identifies a server version of the

server copy of the resource [col 5, lines 29-36].

It would have been obvious to a person skill in the art at the time the invention was made

to combine the teaching of Souder and Draper because Draper's teaching would allow to reduce

overhead for the synchronizing process.

14.   As per claim 12, Souder discloses the client resource tag is received at the server in a

PUT method [col 2, lines 51-63].

15.   As per claim 13, Souder discloses the step of initiating the conflict detection from the

client [col 11, lines 38-44].

16.   As per claim 14, it is rejected for similar reason as stated in claim 6.

17.   As per claim 16, Souder discloses the step of resolving the conflict in accordance with a

schema known to the server [col 4, lines 34-38].

18.   As per claim 40, it is program product claimed of claims 1 and 10, it is rejected for

similar reasons as stated in claims 1 and 10.

19.   As per claims 18 and 19, they are program product claimed of claim 7, they are rejected

for similar reasons as stated above in claim 7.

20.   As per claim 20, Souder discloses a set of differences existing between the server copy of

the resource and the client copy of the resource [col 8, lines 33-35].

21.   As per claim 21, Souder does not specifically disclose information useful to the client for

resolving the conflict. Draper discloses information useful to the client for resolving the conflict

[col 8, lines 62-col 9, lines 10]. It would have been obvious to a person skill in the art at the

time the invention was made to combine the teaching of Souder and Draper because Draper's

teaching would allow client to recognize what need to be done in order to resolve conflict which

helps to increase system performance.

22.   As per claims 24 and 25, they are rejected for similar reasons as stated above in claim 1.

23.   As per claim 27, it is rejected for similar reasons as stated above in claim 14.

24.   As per claim 28, it is rejected for similar reasons as stated above in claim 9.

25.   As per claim 29, it is rejected for similar reasons as stated above in claim 9. Furthermore,

Souder discloses wherein the new resource tag identified the current version of the server copy

of the resource and the client version of the resource [col 8, lines 29-33].

26.   As per claims 31-34, they are rejected for similar reasons as stated above in claims 1 and

10.

27.   As per claim 36, it is rejected for similar reason as stated above in claim 1.

28.   As per claim 37, Souder discloses the schema is known to the server [col 4, lines 34-38].

29.   As per claim 38, it is rejected for similar reasons as stated above in claim 1.

30.   As per claim 39, it is rejected for similar reasons as stated above in claim 9.

31.   As per claim 41, it is program product claimed of claim 9, it is rejected for similar

reasons as stated above in claim 9.

32.   As per claim 42, it is program product claimed of claim 10, it is rejected for similar

reasons as stated above in claim 10.

33.   As per claim 43, it is rejected for similar reasons as stated above in claim 1..

34.   A shortened statutory period for response to this action is set to expire **3 (three) months**

and 0 (zero) days from the mail date of this letter. Failure to respond within the

period for response will result in **ABANDONMENT** of the application (see 35 U.S.C

133, M.P.E.P 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Dustin Nguyen whose telephone number is (703) 305-5321. The

examiner can normally be reached on Monday - Friday (8:00 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee can be reached on (703) 306-8498.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directly to the receptionist whose telephone number is (703) 305-3900.

Dustin Nguyen

JOHN FOLLANSBEE
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